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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/875,266	06/07/2001	John Brassil	1509-185	4601

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EXAMINER

ELAHEE, MD S

ART UNIT PAPER NUMBER

2645

DATE MAILED: 04/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/875,266	<b>Applicant(s)</b> BRASSIL ET AL.	
	<b>Examiner</b> Md S Elahee	<b>Art Unit</b> 2645	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This action is responsive to an amendment filed on 09/07/04. Claims 1-15 are pending.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1-15 have been fully considered but are moot in view of the new ground(s) of rejection which is deemed appropriate to address all of the needs at this time.

### ***Claim Objections***

3. Claims 1, 4, 6, 10 and 15 are objected to because of the following informalities: regarding claim 1, the word 'authorisation' in page 9, line 21 of the claim appears to be 'authorization'. Appropriate correction is required. Regarding claims 4, 6, 10 and 15 are rejected for the same reasons as discussed above with respect to claim 1.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-5 and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Rautila et al. (U.S. Patent No. 6,549,625).

Regarding claim 1, Rautila teaches forming a coordinated short-range wireless network using the mobile terminal [i.e., first communications device] and at least one vending machine or location based device [i.e., second communications device] of a similar type (fig.1, items 12, 27'', 25; col.7, lines 1-10).

Rautila further teaches initiating communication between the mobile terminal [i.e., first communications device] and the at least one vending machine or location based device [i.e., second communications device] to establish whether or not the at least one data transmitting unit has data required by the mobile terminal (col.7, lines 1-10).

Rautila further teaches that the mobile terminal communicating, upon the mobile terminal receiving confirmation that a vending machine or location based device has the required data, with a service provider using its first transceiver to request permission for the transfer of the required data from the vending machine or location based device to the mobile terminal (col.6, line 48- col.7, line 10). (Note; since, the user pays for a service and position transmitter acknowledges it, it is inherent that mobile device makes a request for permission for the transfer for the required data)

Rautila further teaches that transferring the required data from the vending machine or location based device to the mobile terminal following transmission by the service provider to the mobile terminal of authorization (col.6, line 48- col.7, line 10).

Regarding claim 2, Rautila teaches that the service provider transmits provisional permission, together with a costing, to the first transceiver of the first communications device (col.6, line 48- col.7, line 10).

Regarding claim 3, Rautila teaches the first communications device transmitting a message accepting the costing to the service provider using its first transceiver (col.6, line 48- col.7, line 10).

Regarding claim 4, Rautila teaches the service provider issuing inherently an authorisation once acceptance of the costing has been received from the first communications device (col.6, line 48- col.7, line 10).

Regarding claim 5, Rautila teaches the service provider communicating the costing to a network service provider of the first communications device (col.6, line 48- col.7, line 10).

Regarding claim 10, Rautila teaches inputting details of an intended purchase into a memory provided in the mobile terminal [i.e., first communications device] (col.6, line 48- col.7, line 10, col.9, lines 12-42).

Rautila further teaches transmitting details of the intended purchase, using the second transceiver of the mobile terminal, to any similar, in-range transceiver which communicates at the second, higher data rate over a short range, any such similar transceiver being associated with a respective supplier (fig.1; col.6, line 48- col.7, line 10, col.9, lines 12-42).

Rautila further teaches receiving, at the second transceiver of the mobile terminal, a communication from any such similar transceiver indicating that the intended purchase is available and indicating its cost (col.6, line 48- col.7, line 10).

Rautila further teaches the mobile terminal communicating, upon receiving the communication from the supplier, with a payment facility using its first transceiver (col.6, line 48- col.7, line 10).

Rautila further teaches that the mobile terminal placing inherently an order for the intended purchase with the supplier using its second transceiver when payment authorisation is received from the payment facility (col.6, line 48- col.7, line 10).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rautila et al. (U.S. Patent No. 6,549,625) in view of Ramachandran et al. (U.S. Pub. No. 2001/0044747).

Regarding claims 6 and 7, Rautila teaches that the second transceiver of the first communications device communicates, once the authorisation has been received, with the second communications device to inform that device that authorisation has been received (col.6, line 48- col.7, line 10).

However, Rautila does not specifically teach "request downloading of the required data". Ramachandran teaches to request downloading of the mp3 sound files (i.e., required data) (fig.2; page 4, paragraphs 0044, 0050, page 5, paragraph 0059). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Rautila to request downloading of the required data as taught by Ramachandran. The motivation for the modification is to have doing so in order to download the sound files.

8. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rautila et al. (U.S. Patent No. 6,549,625) in view of Hitchings, Jr. (U.S. Patent No. 6,594,484).

Regarding claim 8, Rautila does not specifically teach “inputting a list of required data files into a memory provided in the first communications device”. Hitchings teaches inputting a list of scripts (i.e., required data files) into a memory provided in the wireless client device (i.e., first communications device) (col.2, lines 62-67, col.3, lines 1-8). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Rautila to allow inputting a list of required data files into a memory provided in the first communications device as taught by Hitchings. The motivation for the modification is to have doing so in order to produce the user input interactions with an information access system.

Regarding claim 9, Rautila does not specifically teach “the list of required data files is communicated by the second transceiver of the first communications device”. Hitchings teaches the list of scripts (i.e., required data files) is communicated by the wireless client device (i.e., second transceiver of first communications device) (col.2, lines 62-67, col.3, lines 1-8). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Rautila to allow the list of required data files being communicated by the second transceiver of the first communications device as taught by Hitchings. The motivation for the modification is to have doing so in order to make interactions with an information access system.

9. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rautila et al. (U.S. Patent No. 6,549,625) in view of Kumar et al. (U.S. Pub. No. 2002/0143634).

Regarding claim 11, Rautila teaches the payment facility communicating the cost of the intended purchase to a cash register associated with the user of the first communications device

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upon the goods input device communicating to the payment facility that the order has been made (col.6, line 48- col.7, line 10).

Rautila does not specifically teach a banking facility associated with the user of the first communications device. Kumar teaches a banking facility associated with the user of the first communications device (fig.1; page 4, paragraphs 0036-0040). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Rautila to allow a banking facility associated with the user of the first communications device as taught by Kumar. The motivation for the modification is to have doing so in order to provide the required transaction amount to the customer.

10. Claims 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rautila et al. (U.S. Patent No. 6,549,625) and in view of Ramachandran et al. (U.S. Pub. No. 2001/0044747).

Regarding claim 12, Rautila teaches a communications device having a first transceiver for communication at a first data rate over a long range, a second transceiver for communication at a second, higher data rate over a short range (fig.1; col.6, line 48- col.7, line 10).

Rautila fails to teach a communications device having mp3 player, a memory, and a processor for controlling downloading of mp3 files to the memory, and for the transferring mp3 files from the memory to the mp3 player. Ramachandran teaches a mobile phone (i.e., communications device) having mp3 player, a storage device drive (i.e., memory), and a processor for controlling downloading of mp3 files to the memory, and for the transferring mp3 files from the memory to the mp3 player (fig.2; page 4, paragraphs 0044, 0050, page 5, paragraph 0059). Thus, it would have been obvious to one of ordinary skill in the art at the time



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the invention was made to modify Rautila to allow a communications device having mp3 player, a memory, and a processor for controlling downloading of mp3 files to the memory, and for the transferring mp3 files from the memory to the mp3 player as taught by Ramachandran. The motivation for the modification is to have doing so in order to download the sound files and play it.

Regarding claim 13, Rautila fails to teach “the processor is programmed to control the second transceiver to request downloading of a given mp3 file from a similar communications device within the range of the second transceiver”. Ramachandran teaches that the processor is programmed to control the mobile phone (i.e., second transceiver) to request downloading of a given mp3 file from a similar communications device within the range of the second transceiver (fig.2; page 4, paragraphs 0044, 0050, page 5, paragraph 0059). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Rautila to allow the processor being programmed to control the second transceiver to request downloading of a given mp3 file from a similar communications device within the range of the second transceiver as taught by Ramachandran. The motivation for the modification is to have doing so in order to provide the request to download the sound files.

Regarding claim 14, Rautila fails to teach “the processor is programmed to control the first transceiver to request permission from a service provider to download said given mp3 file from a similar communication device holding said mp3 file in its memory”. Ramachandran teaches that the processor is programmed to control the mobile phone (i.e., first transceiver) transceiver to request permission from an ATM (i.e., service provider) to download the given mp3 file from a similar communication device holding the mp3 file in its storage device drive

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(i.e., memory) (fig.2; page 4, paragraphs 0044, 0050, page 5, paragraphs 0059-0061, page 6, paragraph 0062). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Rautila to allow the processor being programmed to control the first transceiver to request permission from a service provider to download said given mp3 file from a similar communication device holding said mp3 file in its memory as taught by Ramachandran. The motivation for the modification is to have doing so in order to provide the permission for downloading the sound files.

Regarding claim 15, Rautila fails to teach “the processor is programmed to control the second transceiver to request downloading of said mp3 file once authorisation is received from the service provider”. Ramachandran teaches that the processor is programmed to control the mobile phone (i.e., first transceiver) transceiver to request downloading of the mp3 file once authorisation is received from the ATM (i.e., service provider) (fig.2; page 4, paragraphs 0044, 0050, page 5, paragraphs 0059-0061, page 6, paragraph 0062). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Rautila to allow the processor being programmed to control the first transceiver to request permission from a service provider to download said given mp3 file from a similar communication device holding said mp3 file in its memory as taught by Ramachandran. The motivation for the modification is to have doing so in order to provide the permission for the required transaction to the customer.

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Stafford (U.S. Patent No. 5,742,915) teach Position referenced data for monitoring and controlling, Cannon et al. (U.S. Patent No. 6,650,871) teach Cordless RF range extension for

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wireless piconets, Lorbeck (U.S. Pub. No. 2003/0114135) teach Wireless phone link and Slettengren et al. (U.S. Pub. No. 2002/0028674) teach Politeness zones for wireless communication devices.

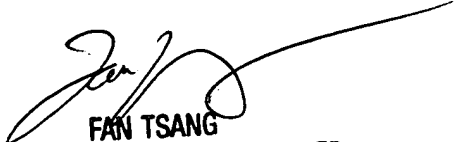
12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Md S Elahee whose telephone number is (571) 272-7536. The examiner can normally be reached on Mon to Fri from 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*M.S.E.*

MD SHAFIUL ALAM ELAHEE  
April 13, 2005

  
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